

# An Analysis of the Petroleum Industry Act 2021 as a Panacea to Achieving the Economic Objectives in Chapter Two of Nigeria's Constitution

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## Abstract

*The Petroleum Industry Bill Act 2021 made far reaching changes to the legal and institutional framework regulating the petroleum sector in Nigeria. The Act incorporated into one statute several legislations making it easier to appreciate the legal regime for regulating the petroleum sector and reducing conflict between Government bodies working in the sector. This paper uses the doctrinal research method to discuss using existing literature the possibility of the changes in the PIA to help Nigeria achieve its economic objectives contained in Chapter two of the constitution. The paper finds that because Government failed severally in business such that it decided to privatise its businesses, it is doubtful if the new Government wholly owned NNPC limited will fare better. Thus the Petroleum Industry Act may not have the desired impact on the economy of Nigeria as to go a long way in achieving Nigeria's economic objectives.*

**Keywords:** Petroleum Industry, Economic Objectives, Upstream, Midstream, Downstream, Host Community, Regulation

## 1. Introduction

The social contract theory postulates that citizens willfully surrender their rights and commonwealth to the government to administer the resources for their betterment<sup>1</sup>. Thus, it is the responsibility of government to administer state resources in such a manner that provides for efficient utilization of resources and equitable distribution of the commonwealth.

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<sup>1</sup> Nweke, K. and Nkwede, J. O. (2019). The Nigerian State and Hobbs' social contract theory: an albatross around the collective will of the people. *European Journal of scientific research* 153(3). Retrieved from <https://www.europeanjournalofscientificresearch.com>.

It was in furtherance of this social contract that the Constitution of the Federal Republic of Nigeria 1999 (as amended)<sup>2</sup> contains in its second chapter what is generally referred to as the Fundamental Objectives and Directive Principles of State Policy<sup>3</sup>. The objectives contained in chapter two of Nigeria's constitution are socio-economic objectives designed to bring the dividends of democracy to Nigerians by ensuring that government political leaders do not just focus on acquiring power and its material perquisites but develop political ideas of how society can be better organised and governed for the benefit of all<sup>4</sup>. These socio-economic objectives include economic, educational, political, social, foreign policy and environmental objectives. It is pertinent to observe that although the constitution does not make the realization of these objectives justiciable<sup>5</sup>, it imposes a duty and responsibility on all organs of government, all authorities and persons exercising executive, legislative or judicial powers to observe and apply those constitutional provisions<sup>6</sup>.

To attain the economic objectives contained in the constitution of the Federal Republic of Nigeria, the government of Nigeria has been making several economic policies with the aim of harnessing her vast human and natural resources for the benefit of her citizens. Since petroleum accounts for about 88% of Nigeria's foreign exchange<sup>7</sup> and contributes about 64% of Government revenue<sup>8</sup>, the importance of the petroleum industry to Nigeria's economy cannot be over-emphasised.

Recently, Nigeria's National Assembly passed into law the Petroleum Industry Act 2021. The Act consolidated the provisions of the various laws and institutional framework for the regulation of the petroleum industry in Nigeria into a single Act of Parliament. The Act also made certain far reaching amendments in the petroleum industry with a view to making Nigeria's petroleum industry more

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<sup>2</sup> Cap. C23, Laws of the Federation of Nigeria 2004.

<sup>3</sup> See sections 13 to 24 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>4</sup> Okere, B. O. (2008). Fundamental Objectives and directive Principles of State Policy under the Nigerian Constitution. *International & Comparative Law Quarterly*. 32(1). <https://doi.org/10.1093/iclqaj/32.1.214>

<sup>5</sup> See section 6 (6) (c) of the constitution

<sup>6</sup> See section 13 of the constitution

<sup>7</sup> Ajayi, W. (2019). Nigeria Oil and Gas update. *KPMG*. Retrieved from <https://www.home.kpmg/ng/en/insights/2019/04/Nigerian-Oil-and-Gas-Update.html>.

<sup>8</sup> Ibid

globally competitive, profits oriented and to bring it in consonance with the requirements of international best practices in the petroleum industry.

This paper uses the doctrinal research method to examine the innovations contained in the Petroleum Industry Act 2021 with a view to ascertaining the sufficiency or insufficiency of these innovative provisions towards meeting the economic objectives contained in chapter two of Nigeria's constitution.

## **2. Background of the repealed legal and institutional framework regulating the petroleum industry in Nigeria**

Prior to the enactment of the Petroleum Industry Act 2021, the legal and institutional framework for the regulation of the Petroleum Industry in Nigeria is not in a single legislation but in several legislations. The principal legislations were the Constitution of the Federal Republic of Nigeria and the Petroleum Act. Other legislations include the Nigerian National Petroleum Corporation Act, Deep Offshore and Inland Basin Petroleum Production Sharing Contracts Act, Petroleum Profits Tax Act, Environmental Impact Assessment Act, Federal Inland Revenue Service Act, Educational Tax Act, Oil and Gas Industry content development Act, Niger Delta Development Commission Act, Nigerian Extractive Industry Transparency Initiative Act, National Oil Spill Detection and Response Agency Act and the Oil Pipeline Act. However, many of these legislations have become obsolete and are not in consonance with the realities of the modern petroleum industry.

## **3. Economic policies geared towards attaining the economic objectives in chapter two of Nigeria's constitution**

The Fundamental Objectives and Directive Principles of State policy as contained in Chapter Two of Nigeria's constitution<sup>9</sup> was carried over from the provisions of Constitution of the Federal Republic of Nigeria 1979. Section 16 of the constitution provides that:

- (1) The state shall, within the context of the ideals and objectives for which provisions are made in this constitution –
  - (a) Harness the resources of the nation and promote national prosperity and efficient, a dynamic and self-reliant economy;

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<sup>9</sup> Sections 13 to 24 of the constitution of the Federal Republic of Nigeria, 1999

- (b) Control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;
  - (c) Without prejudice to its right to operate or participate in areas of the economy, within the major sector of the economy, protect the right of every citizen to engage in any economic activity outside the major sectors of the economy.
- (2) The State shall direct its policy towards ensuring-
- (a) The promotion of a planned and balanced economic development;
  - (b) That the material resources of the nation are harnessed and distributed as best as possible to serve the common good;
  - (c) That the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of a few individuals or of a group; and
  - (d) That suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, unemployment and sick benefits and welfare for the disabled are provided for all citizens.
- (3) A body shall be set up by an Act of the National assembly which shall have power to-
- (a) To review, from time to time, the ownership and control of business enterprise operating in Nigeria and make recommendations to the President on the same; and
  - (b) To administer any law for the regulation of the ownership and control of such enterprises.
- (4) For the purposes of subsection (1) of this section-
- (a) The reference of the “major sectors of the economy” shall be construed as a reference to such economic activities as may, from time to time be declared by a resolution of such House of the National Assembly to be managed and operated exclusively by the Government of the Federation; and until a resolution to the contrary is made by the National Assembly, economic activities being operated exclusively by the Government of the Federation on the date immediately preceding the day when this section comes into force, whether directly or through the agencies of a statutory or other corporation or company, shall be deemed to be major sectors of the economy;

- (b) “Economic activities” include activities directly concerned with the production, distribution and exchange of wealth or of goods and services; and
- (c) “Participate” includes the rendering of services and supplying of goods. The economic objectives contained therein are designed to impose a duty and responsibility on the government to meet the economic needs of Nigeria.

It is clear from the above provision that Section 16 (1) of the constitution imposes an obligation on the government to efficiently harness Nigeria’s resources for the benefit of its citizens. Since the coming into force of the Constitution of the Federal Republic of Nigeria, 1999 past and present administrations have made economic policies with the view of achieving the economic objectives contained in section 16 of the constitution. These policies which include the National Economic Empowerment and Development Strategy (NEEDS)<sup>10</sup>, the Vision 20-2020<sup>11</sup>, National Transformation Agenda<sup>12</sup>, and the Economic Recovery and Growth Plan<sup>13</sup> have varying degrees of success. The Economic Recovery and Growth Plan in particular recognized the importance of the petroleum sector to Nigeria’s economy and sought to increase export of petroleum products whilst significantly reducing imports of petroleum products by the year 2020<sup>14</sup>. It is no surprise therefore that the present administration has enacted the Petroleum Industry Act with a view to meeting its economic objectives.

#### **4. Novel provisions in the Petroleum Industry Act**

The Petroleum Industry Act brings with it new innovations into the Petroleum Sector. Perhaps the first noticeable innovation in this

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<sup>10</sup> This programme was introduced in 2003 by the Olusegun Obasanjo regime as a medium term plan focused on wealth creation, poverty reduction and value orientation.

<sup>11</sup> Introduced by the Dr. Goodluck Jonathan administration to make Nigeria a fully developed economy and among the top twenty economies in the world by the year 2020.

<sup>12</sup> This policy aimed at transforming the mentality of Nigerians to help achieve economic policies in the Vision 20-2020

<sup>13</sup> Introduced after Nigeria entered recession for the first time in 25 years to revive Nigeria’s economy by making it sustainable.

<sup>14</sup> Adekunle, S. B. (2020). An appraisal of the Nigeria Economic Recovery and Growth Plan, 2017 – 2020. *African Research Review International Multi-disciplinary Journal*. 12(3). Doi: <http://dx.org/10.4314/afrrrev.v12i3.3>. Accessed 1 October, 2021.

Act is that it brings together the different statutes regulating the legal and institutional framework in the petroleum industry into one Act. This innovation makes it easier to appreciate the legal and institutional framework regulating the petroleum industry in Nigeria. It also takes away duplication and possible conflict within the various institutions, as hitherto was the case.

The Petroleum Industry Act (PIA) is divided into five chapters. Chapter one deals with the governance and institutional framework, chapter two provides for administration, chapter three is dedicated to host communities, Chapter four provides for the fiscal framework while chapter five concludes the Act with miscellaneous provisions. The PIA contains innovative provisions on the objectives of the Act, the powers of the Minister of petroleum, management and administration of the petroleum sector, creating new institutions and provisions for host communities.

*i. Objectives of the PIA:* Like the repealed Petroleum Act<sup>15</sup> Section one of the PIA provides that “the property and ownership of petroleum within Nigeria and its continental shelf and exclusive economic zone is vested in the Government of the Federation of Nigeria.” However, unlike the Petroleum Act<sup>16</sup> section two of the PIA states the objectives of chapter one. It provides that:

The objectives of this chapter are to-

- (a) Create efficient and effective governing institutions, with clear and separate roles for the petroleum industry;
- (b) Establish a framework for the creation of a commercially oriented and profit driven national petroleum company;
- (c) Promote transparency, good governance and accountability in the administration of the petroleum resources of Nigeria;
- (d) Foster a business environment conducive for petroleum operations; and
- (e) Deepen local content practice in Nigeria oil and gas industry.

This provision clearly provides direction for the governance of the petroleum industry with measurable objectives in terms of institutional efficiency, good governance and accountability, local content and profits which were lacking in the Petroleum Act.

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<sup>15</sup> Cap. P10. Laws of the Federation of Nigeria 2004.

<sup>16</sup> Op. cit.

**ii. Powers of the Minister of Petroleum:** The PIA retains the general oversight and supervisory powers of the Minister of Petroleum in the Petroleum Act<sup>17</sup>. Section 3 gives the Minister of petroleum wide powers. It provides that:

3(1) The Minister shall –

- (a) Formulate, monitor and administer government policy in the petroleum industry;
- (b) Exercise general supervision over the affairs and operation of the petroleum industry in accordance with the provisions of this Act;
- (c) Report developments in the petroleum industry to the government;
- (d) Represents Nigeria at international organisations on petroleum matters;
- (e) Promote an enabling environment for investment in the Nigerian petroleum industry;
- (f) Negotiate treaties or other international agreements on matters pertaining to petroleum on behalf of the Government;
- (g) Upon the recommendation of the Commission, grant petroleum prospecting licences and petroleum mining leases through the processes established in this Act;
- (h) Upon the recommendation of the Commission and pursuant to the provisions of this Act and the regulations revoke and assign interests in petroleum prospecting licenses and petroleum mining leases;
- (i) Delegate in writing to the Chief Executive of the Commission or Authority any power conferred on the Minister by or under this Act;
- (j) Upon the recommendation of the Commission or Authority approve the fees for services rendered by the Commission or Authority in regulations; and
- (k) Upon the recommendation of the Commission or the Authority, direct in writing the suspension of petroleum operations in any area-
  - (i) Until arrangements to prevent danger to life or property have been made to his satisfaction, or
  - (ii) Where in his opinion, a contravention of this Act or any regulation made under this Act has occurred or is likely to occur.

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<sup>17</sup> See Sections 2, 3 and 4 of the Petroleum Act.

- (2) The Minister may order a cutback of the levels of crude oil or condensate production in the context of international oil pricing agreements supported by Nigeria.
- (3) The Minister shall have right of pre-emption of petroleum and petroleum products marketed under any license or lease in the event of a national emergency under the First Schedule to this Act.
- (4) The Minister shall give general policy directives to the Commission on the matters concerning Upstream petroleum operations and to the Authority on the matters relating to midstream and downstream petroleum operations as well as matters related to co-operation among the two entities in line with the provisions of this Act and the Commission and the Authority shall comply with such directives.
- (5) The Minister shall cause the general policy directives issued under sub section (4) to be published in the Federal Government Gazette.

Although the PIA gives the Minister of Petroleum wide powers to oversee the petroleum industry and represent the government in international organisations, unlike the provisions of sections 2, 3 and 4 of the Petroleum Act which gives the Minister of petroleum the sole discretionary powers to issue oil prospecting licenses, oil mining licenses, oil leases, refinery licenses and licenses for the sale, storage and distribution of petroleum products, Section 3 (1) (g) and (h) curtails these powers by providing that then Minister of petroleum shall exercise the discretion upon the recommendation of the Commission. These innovations may make the process of issuing licenses more transparent since it will no longer be the prerogative of a single individual.

### ***iii. Governance and Administration***

The PIA decentralised the administration of the petroleum industry in Nigeria into two. The Upstream sector is to be administered by the Nigerian Upstream Petroleum Regulatory Commission (the Commission). The Nigerian Midstream and Downstream Petroleum Regulatory Authority (the Authority) which regulates the midstream and downstream sectors.



- a. **Nigerian Upstream Petroleum Regulatory Commission:** Section 4 of the PIA creates the Nigerian Upstream Petroleum Regulatory Commission as a body corporate with perpetual succession and a common seal with the responsibility of regulating technical and commercial activities in upstream activities. Section 6 lists the objectives of the commission to include regulating technical and commercial activities, ensuring compliance with existing laws and regulations, formulate policies, management of petroleum reserves and issuing permits for seismic operations, drilling operations and design, construction and operation of facilities to be used in the upstream sector. Section 7 gives details of areas of technical regulations and section 8 specifies the areas of commercial regulations.

Section 8 provides for the commercial regulatory powers of the commission to include reviewing and granting approvals for the commercial aspects of field development plans in the upstream petroleum sector, developing cost studies and benchmarks for the evaluation of upstream petroleum operations and allocating petroleum production quotas.

Section 9 (1) of the Act introduces the concept of frontier basins. It provides that:

The functions of the commission with respect to frontier basins shall be to –

- (a) Promote the exploration of the frontier basins of Nigeria;
- (b) Develop exploration strategies and portfolio management for the exploration of unassigned frontier acreage in Nigeria;
- (c) Identify opportunities and increase information about the petroleum resources base within frontier basins in Nigeria; and
- (d) Undertake studies, analyse and evaluate unassigned frontier basins in Nigeria.

This novel provision not only gives statutory backing to on-going oil exploration in the frontier basins<sup>18</sup> but also financial backing. If successful, discovery of oil in the frontier basins will increase output and revenue for the country. Section 10 of the PIA gives the Commission powers to enforce regulations, policies and enactments. The powers conferred on the commission by section 10

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<sup>18</sup> Hassan, S. I. (22 September, 2020). The untold stories about oil discovery in North. *Blueprint Newspaper*. Retrieved from <https://www.blueprint.ng/the-untold-stories-about-oil-discovery-in-the-north/>

of the Act clearly means that the commission is to take over the functions previously exercised by the Department of Petroleum Resources and the Petroleum Inspectorate Division (DPR).

Section 11 of PIA places the responsibility of managing the commission on a Governing Board consisting of one non-executive chairman, two non-executive commissioners, chief executive of the commission, two other executive commissioners<sup>19</sup>, one representative of the Downstream and Midstream Petroleum Regulatory Authority, a representative of the Ministry of Petroleum and a representative of the ministry of Finance. Members of the Governing Board are to be appointed by the president subject to confirmation by the senate. Their remuneration is to be determined in accordance with the guidelines of the National Salaries, Incomes and Wages Commission in line with the standard in the Petroleum Industry. Section 24(2) of the PIA states the sources of income for the commission to include subvention from the national Assembly, fees charged by the commission for services rendered to licensees, fees paid to the commission and money accruing to the commission by way of grants, aids, gifts, testamentary dispositions, endowments and contributions. To prevent government agencies working at cross purposes with the commission, section 25 requires any government agency. Ministry or department exercising any power or function or taking any action which may have direct impact on the upstream petroleum sector to consult the commission before issuing regulations, guidelines or taking any action.

#### **b. Nigerian Midstream and Downstream Petroleum Regulatory Authority:**

Section 29 of the PIA creates this Authority as a body corporate with perpetual succession and a common seal. Its objectives as provided in section 31 of the Act are similar to that of the Nigerian Upstream Petroleum Regulatory Commission except that its duties and sphere of operation are limited by section 30 of the Act to the midstream and downstream sectors. The Authority is governed by a Board and it has the powers to make regulations in respect of the downstream and midstream sectors. Section 32 grants the Authority

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<sup>19</sup> The President has sought an amendment to increase the number of executive commissioners from two to four to represent the geopolitical arrangement in the country. See Aborosade, S., Igoni, D. and Naku, D. (September 22, 2021). Buhari demands PIA amendment, ignores host communities' three per cent agitation. *Punch Newspaper*. Retrieved from <https://www.punch.com>.

the power to grant, issue, modify, cancel or terminate all licenses, in the Authority. These powers were previously vested solely on the Minister of Petroleum by the Petroleum Act. Section 33 empowers the Authority to make regulations concerning the processing, refining, transmission, distribution, supply and sale of petroleum products. Establishing criteria for the procedure of review and approval of licenses.

The Authority managed by a Governing Board established pursuant to Section 34 of the Act. The membership of the board is similar to that of the commission. However, the Act is silent on whether the same persons acting as representatives of the Ministry of Petroleum and Ministry of Finance on the Commission have to be the same persons on the Board of the Authority or different persons.

By the provisions of Section 47 (2), the sources of the Authority's income include money appropriated by the National Assembly, fees charged by the Authority for services, 0.5% of the wholesale price of petroleum products sold in Nigeria and money accruing to the Authority by way of grants, aids, gifts or contributions.

**c. Midstream and Downstream Gas Infrastructure Fund:**

Another novel provision of the Act is contained in section 52 which establishes the Midstream and Downstream Gas Infrastructure Fund (the Fund) as a body corporate with perpetual succession and a common seal. The purpose of the Fund is to make investments in the midstream and downstream gas sector so as to increase domestic consumption and increase government shareholdings in infrastructure related to the downstream and midstream gas sectors. Section 52 (3) establishes a Governing Council to supervise and make investment decisions for the Fund. The Fund shall derive its income from 0.5% of the wholesale price of petroleum products and gas sold in Nigeria, funds and grants from multilateral agencies, bilateral institutions and related sources dedicated for development of infrastructure and monies received from gas flaring penalties.

**d. The Nigerian National Petroleum Company Limited:** Section 53 of the PIA enjoins the Minister of Petroleum Resources to incorporate a limited liability company to be known as the Nigerian National Petroleum Limited (NNPC Limited)<sup>20</sup>. The

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<sup>20</sup> NNPC Limited has been incorporated. See Azeez, W. (29 September, 2021). PIA: CAC completes incorporation of NNPC Limited. *The Nation Newspaper*. Retrieved

NNPC Limited is wholly owned by the Federal Government with the Ministry of Petroleum Incorporated and the Ministry of Finance Incorporated holding equal shares. Section 53(3) transfers all the assets and liability of the Nigerian National Petroleum Corporation (NNPC) to NNPC Limited. Section 53(5) provides that the shares of NNPC Limited can only be transferred by an approval of the Government and endorsed by the National Economic Council. Section 53 (7) provides that the NNPC Limited and its subsidiaries are to carry out its affairs in a profitable and efficient manner without recourse to the Government for funds. Section 59 (2) provides that NNPC Limited is to be governed by a Board consisting of a non-executive Chairman, the Chief Executive of NNPC Limited, the Chief Financial Officer of NNPC Limited, a representative of the ministry of Petroleum Resources and a representative of the Ministry of Finance.

The objectives of NNPC Limited as contained in Section 64 is to carryout petroleum operations on a commercial basis comparable to private companies in Nigeria. Thus, the PIA exempts the company from the provisions of the Public Procurement Act, Fiscal Responsibility Act and Treasury Single Account which are applicable to public institutions.

***iv. Host Communities***

The PIA recognises the importance of developing host communities and as such ..... copious provisions in Section 234 of the PIA chapter three of the Act. Specifically, Section 234 (1) provides that:

The objectives of this chapter are to -

- (a) foster sustainable prosperity within host communities;
- (b) provide direct social and economic benefits from petroleum activities in host communities;
- (c) enhance peaceful and harmonious co-existence between licensees or lessees and host communities; and
- (d) create framework to support the development of host communities.

Section 235 (1) provides further for the incorporation of a Host Communities Development Trust by the Settlor. Section 235 (4) requires the settlor to appoint a board of trustees to be registered with the Corporate Affairs Commission for the purpose of managing the Host Communities Trust, that any company granted oil prospecting license or mining lease on behalf of a joint venture partner known as the settlor shall contribute 3%. Section 318 defines Host communities as “communities situated in or appurtenant to the area of operation of a settlor, and any community as settlor may determine under chapter 3 of this Act”.

## **5. Analysis of the Petroleum Industry Act in achieving Nigeria’s economic objectives**

The Petroleum Industry Act has no doubt introduced some sweeping changes in the petroleum industry. In particular, the changes made towards the incorporation of the Nigerian National Petroleum Limited (NNPC Ltd) is a welcome development. Since this company is a private company, which will have to pay fees for licenses, it would have to depend on excellent performance to compete favourably. It ought not to depend on Government subventions. This will in theory help in achieving Nigeria’s economic objectives as subventions could be channelled to some more productive areas of the economy. However, this company is to be wholly owned by the Government. The Government will be appointing its management staff. Since the directors and managers are not shareholders in the business, it is unlikely that they will put in their best efforts in running the company. It is pertinent to note that shortly after independence; Nigeria established several State Owned Enterprises (SOEs)<sup>21</sup> but most of them failed<sup>22</sup>. It is for this reason that the Federal Government established the Bureau for Public Enterprises (BPE) which was saddled with the responsibility of privatising SOEs. It has been argued that privatisation has brought tremendous impact on the socio-economic system in Nigeria<sup>23</sup>. Previous attempts by the government to participate in business failed because of several factors including government interference,

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<sup>21</sup> Ogoun. S. (2020). Government has no business in business: evidence to the contrary. *The International Journal of Business and Management* 8(2). DOI: 10.24940/theijbm2020/v8/i2Bmi2020-063.

<sup>22</sup> Ibid.

<sup>23</sup> Bukola, A. A. (2021). Privatisation Programme in Nigeria: issues, challenges and prospects in the 21<sup>st</sup> Century. *International journal of humanities research*. 9(1).

political influences in appointment and promotion of staff<sup>24</sup>. It is therefore unlikely that Government participation in NNPC Limited will produce any fruitful result. The government would have adopted a public and private partnership which has produced successful business enterprises<sup>25</sup> instead of sole government participation in the NNPC Limited.

The creation of the Downstream and Midstream Petroleum Authority and the Upstream Petroleum Commission appear to be helpful in achieving Nigeria's economic objectives. This is because both statutory bodies have the obligation of increasing output by increasing exports and reducing imports of petroleum industry. They also have the obligation to ensure investments in the petroleum sector. Since the Minister of Petroleum will no longer enjoy the sole prerogative of issuing, modifying or revoking licenses in the Petroleum sector, the process of issuing, revoking and modifying licenses will become more transparent with clear guidelines thereby making the sector more attractive to investors. Unfortunately, the PIA provides for subvention and grants as a source of funding. It is the view of this paper that where a government agency relies on subventions and grants as a source of income, it may not be motivated to raise its own income. Apart from the above, the PIA provides for too many board members for the Commission and the Authority. Since these would have to be remunerated, a large chunk of the Commission's and Authority's income may be used to finance its staff salaries.

The creation of the Midstream and Downstream Gas Infrastructure Fund is useful in generating funds for the government. This is because the main purpose of the Fund is to make investments on behalf of the government in the gas sector whilst promoting increase in domestic gas consumption and decreasing or eliminating gas flaring. This Fund if properly applied would help in achieving Nigeria's economic objectives as it has the potential to create jobs and increase revenue for the government because underdeveloped infrastructure in the gas sector has been the major reason for poor investment in the sector<sup>26</sup>.

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<sup>24</sup> Omoleke, I. (2010). The Nigerian privatisation policy and the hope for the grassroots. *International Review of Business papers*. 6(1). Retrieved from [www.researchgate.net](http://www.researchgate.net)

<sup>25</sup> Ogoun n.21.

<sup>26</sup> Nwachukwu, S. C. (4 October, 2021). Challenges, opportunities for NNPC Limited in this COVID -19 era. *Business Am*. Retrieved from [www.businessam.com](http://www.businessam.com).

Another source of concern is the financing of oil exploration in Nigeria's frontier basins. The PIA ought to allow oil exploration to be done wherever has the greatest prospects<sup>27</sup>. This is because why most oil exploration companies are moving away from oil exploration in frontier basins since previous explorations have not yielded a positive result<sup>28</sup>.

## **6. Conclusion**

The PIA has made some novel changes to the legal and institutional framework of the petroleum sector in Nigeria. Sweeping changes to the powers of the Minister of Petroleum resources, creating the Upstream Petroleum Regulatory Commission, Downstream and Midstream Petroleum Regulatory Authority, the NNPC Limited, Gas Infrastructure Fund, oil exploration in the frontier basins all appear to work towards achieving Nigeria's economic objectives. However, Government past failures in managing its business corporations do not give much hope that the new NNPC Limited will be any different. Furthermore, the fact that the president wants the Non-executive commissioners on the board of the Upstream Petroleum Regulatory Commission and the Downstream and Midstream Petroleum Regulatory Authority to be increased so that there is one non-executive commissioner from each geo-political zone shows that the position of non-executive commissioners and indeed the boards will more likely be used as political tools instead of tools for economic advancement. As it stands it is very doubtful if the new PIA will contribute significantly towards achieving the economic objectives in Nigeria's constitution.

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<sup>27</sup> Esanub, F. (22 August, 2021). Using NNPC's 3% profit for oil exploration not bad but shouldn't be limited to one region – Esanubi, ex-PENGASSAN Ag President. Punch Newspaper. Retrieved from [www.punchng.com](http://www.punchng.com)

<sup>28</sup> Ibid.